

CALIFORNIA STATE COASTAL CONSERVANCY

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BY FACSIMILE TRANSMISSION

Norman R. Haynie
Lechuza Villas West
22761 Pacific Coast Highway #260
Malibu, CA 90265

Dear Mr. Haynie:

I am writing in reply to your letter of September 19 regarding the proposals of Lechuza Villas West to provide real property interests and other assets for the purpose of facilitating public access to Lechuza Beach.

It is my understanding that the offers would be contingent upon approval by the California Coastal Commission of the coastal development permit applications currently pending, and that no such conveyances would occur if the permits are not approved. You have requested that the Conservancy review the proposed conveyances and comment upon the degree to which the proposals would be acceptable to the Conservancy. To provide information to the Coastal Commission and other interested parties, in view of the complicated and controversial nature of these proposals, it is appropriate that the Conservancy provide such comment upon their technical adequacy. This review should not, however, be misconstrued as endorsing the proposed development permits or as indicating the support of the Conservancy for approval of the projects as a means of accomplishing public access.

As you have discussed with Conservancy staff, there appear to be three principal issues bearing on the adequacy of the proposals contained in your letter. An issue has been raised regarding the legal authority of Lechuza Villas West, as holder of fee title, to convey rights of access to the public across property in which other parties hold easement rights. The proposed trail connection between Broad Beach Road and the Sea Level Drive right-of-way would require substantial physical improvement to make it suitable for public use. Opening of this area to increased public use would require acceptance of management responsibility by a public agency or non-profit corporation, and would result in significant costs for the managing agency.

With respect to the question of legal authority to convey public access, it is beyond the capability of the Conservancy to provide an answer to this threshold question. Because this is basic to carrying out any of the access program, and because there is a clear threat of litigation over this issue, it would be the recommendation of the Conservancy to the Coastal Commission that any program of public access based upon the proposals contained in your letter be conditioned upon the favorable resolution of any such litigation prior to commencement of development.

letter to Norman Haynie re: Lechuza Beach public access, page two

With respect to physical improvements to the proposed 10-foot-wide public trail between Broad Beach Road and the shoreline, you have proposed to provide \$100,000 to the Conservancy in accordance with the estimated cost of these improvements, or to accomplish the construction yourself. The Conservancy recommends that trail improvements be accomplished by your efforts, to the specifications described in the preliminary engineering feasibility assessment prepared by Creegan + D'Angelo (8/27/91), regardless of cost.

Two related issues involve the need for regulatory approvals to permit the construction of these improvements, and the dependence of the public access use on the availability of on-street parking along Broad Beach Road. It is likely that development of the trail will have some opposition from residents along Broad Beach Road concerned with parking and traffic impacts, and this raises a significant uncertainty regarding implementation of the access project. In addition, while it appears that there is now a very substantial capacity for on-street parking in the vicinity of the proposed trail, the entirety of the proposed access program would be negated were this capacity removed. To resolve these concerns, it is recommended that commencement of the residential project be conditioned upon necessary regulatory approvals for the trail improvements, and that the Coastal Commission itself assure that no future regulation of on-street parking in this area be permitted to diminish the proposed public access use.

Regarding management of the beach following construction of the improvements, there is not now any agency or non-profit organization that has indicated a willingness to operate this facility. Given time, however, it is likely that an administrative arrangement could be devised for an area experiencing significant public use. It is recommended that the alternative that you have suggested for a five-year management maintenance program arranged by you would be most appropriate. This period (which I assume will commence with the completion of the improvements) will provide a sound track record of use for evaluation by prospective successor management entities, and would allow an adequate time for the Conservancy to develop a permanent alternative. Maintenance of the beach, as we understand it, would include activities such as a daily opening/closing of access gates, arrangement for garbage pick-up, assurance of adequate signing, and responsibility for public liability insurance. Conservancy staff would work with you to devise a management contract specifying the operational plan for the beach, and I will transmit for your review an example of such an agreement from another beach site.

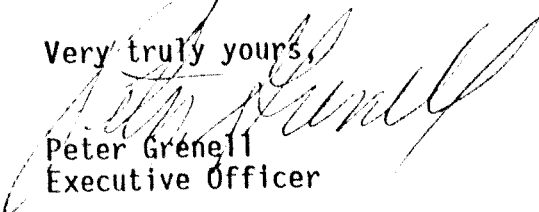
In general, then, if the Coastal Commission determines to approve the subject residential development permits, the public access program described in your letter (items A. - E., page three) would be acceptable to the Conservancy staff and I would be prepared to recommend that the Conservancy agree to accept the offered donations. As described above, however, there are several specific concerns regarding the legal/administrative feasibility of implementing these proposals, and regarding the additional detail work that would be required to

letter to Norman Haynie re: Lechuza Beach access, page three

assure the construction of improvements and operation of the facility. Some of these should be addressed by the Coastal Commission in the event that this proposal is to be incorporated in an approved coastal development permit, and some of them can be resolved between yourself and Conservancy staff if the project reaches that stage.

I appreciate the opportunity to review the proposed public access program, and I hope that this letter and the prior analyses provided by Conservancy staff will assist the Coastal Commission in its evaluation of this matter.

Very truly yours,



Peter Gréneil
Executive Officer

cc: Peter Douglas